

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S side of Eastern Avenue; 99 feet		
E of 47th Street centerline	*	OFFICE OF ADMINISTRATIVE
12 th Election District		
7 th Council District	*	HEARINGS FOR
(7105 Eastern Avenue)		
	*	BALTIMORE COUNTY
Frawing Galan		
<i>Petitioner</i>	*	CASE NO. 2012-0059-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the property, Frawing Galan. The Petitioner is requesting Variance relief under Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a covered open deck addition and stairs to same with front and side setbacks of 1.5 feet and 2.5 feet in lieu of the required 9 feet (front average setback) and 7.5 feet, respectively. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the variance request was Petitioner Frawing Galan and Bernadette Moskunas with Site Rite Surveying, Inc., the professional land surveyor who prepared the site plan and is assisting the Petitioner through the permitting process. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

This matter came to the Office of Administrative Hearings as a result of an anonymous complaint registered with the Code Enforcement Division of the Department of Permits, Approvals and Inspections¹. A Code Inspections and Enforcement Correction Notice was issued to Petitioner July 14, 2011, for failure to obtain required building permits and inspections. It was

¹ Case No: CO-0096012

later determined the citation was issued to the former owners of the property rather than Petitioner. Even so, Petitioner filed the instant variance request to bring the property into compliance.

Testimony and evidence revealed that the subject property is 4,921 square feet in area, and is approximately 27' wide, being comprised of a 25' wide lot (Lot 603) and 12' of Lot 602. The property appears on a plat of Harbor View, recorded nearly 100 years ago.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief. The file contains no letters of opposition or protest and the Petitioner submitted letters from his adjoining neighbors who are supportive of his request.

The Petitioner testified he was aware that he needed some sort of permit or approval from Baltimore County, but allowed his contractor to convince him it would be permissible to complete the work only on weekends. I appreciate his candor, and believe his intentions are to improve the property, which is a laudable goal.

The Petitioner indicated that some years ago an open porch on the front of the house was enclosed by former owners. The Petitioner's mother desired an open porch on the front of the property, and he would be unable to construct the additions without variance relief from the otherwise applicable front and side yard setbacks.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The lot is extremely narrow, and to construct a porch of sufficient size requires variance relief.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. The porch appears to be an attractive addition to the home, and will not in any way cause injury or harm to the

neighborhood. Therefore, in all manner and form, I find that the variance can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED, this 6th day of October, 2011 by this Administrative Law Judge that Petitioner's Variance request from Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a covered open deck addition and stairs to same with front and side setbacks of 1.5 feet and 2.5 feet in lieu of the required 9 feet (front average setback) and 7.5 feet, respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for her building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioner will be required to return and be responsible for returning said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County